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The Military Judge: More Than A Mere Referee

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"The trial judge is more than a mere referee, and as such he is required to assure that the accused receives a fair trial."¹ With these words the Court of Military Appeals places squarely upon the shoulders of the military judge a broader responsibility in overseeing the trial of a case. A number of cases decided by the Court of Military Appeals during the last year illustrate that the power and duty of military judges have been expanded in several areas.

The Court of Military Appeals has clearly focused on the military judge as the central figure in the military criminal justice system. Indeed, Chief Judge Fletcher envisions a continuing jurisdiction trial court wherein the accused for most purposes would be under the jurisdiction of the trial court and thereby within the trial judge's aegis.² Military attorneys and judges alike should be aware of the enhanced authority of the military judge and the consequences which ensue should the latter in any way fail his obligations. A re-examination of the military judge's role in light of recent Court of Military Appeals decisions is therefore appropriate.

It is well established the military judge must generally instruct the jury on the elements of the offenses in addition to potential defenses and questions of law raised by the evidence. In other words, he must frame the issues in a case, and he cannot rely on the passivity of defense counsel as a waiver of an appropriate instruction.³ While the judge determines a confession to be voluntary prior to its admission in evidence, if an issue as to its voluntariness is subsequently raised before the jury,

he must sua sponte instruct the court members that they may not consider the confession unless they find it voluntary beyond a reasonable doubt.⁴ The failure of defense counsel to request appropriate instruction notwithstanding, the judge must instruct the jury with respect to voluntariness when, for example, there is evidence that the accused was intoxicated to the point of being unable to give a voluntary statement.⁵ Likewise, if a judge fails to instruct sua sponte on a lesser included offense such an omission is erroneous and the Court of Military Appeals will find inherent prejudice and reverse, thereby seemingly holding this error always to be harmful.⁶ The rationale for so holding an instructional omission of this nature to be per se harmful is that "there is always a reasonable possibility that the court members were misled in resolving the accused's guilt."⁷ Even where the defense goes on record with respect to its desires as to instructions, the ultimate responsibility for appropriate instructions remains with the judge. Thus, the omission of instructions on lesser included offenses, even as to one lesser offense which was the subject of a specific defense objection, has been held prejudicial to the accused.⁸

The military judge must not only be alert to the fatal consequences in the omission of appropriate instructions on issues raised by the evidence (even if he implicitly determines that certain issues are not generated by the evidence, appellate tribunals will independently evaluate the evidence),⁹ but he must also take care not to misapply the law in his rulings. Two recent cases illustrate the potential for reversal in the military judge's rulings. In

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the first instance the military judge denied a defense motion to suppress the testimony of an immunized witness on the basis that such would be the fruit of an illegal search, declaring the legality of the search to be a "moot question" because of trial counsel's assurance that "neither the *physical* products of the search nor any *testimony concerning what was found during the search* would be offered into evidence."¹⁰ Obviously, the military judge erroneously believed that live testimony itself is not an appropriate subject of a suppression motion.¹¹ Applying the standard that errors of constitutional dimension must be harmless beyond a reasonable doubt,¹² the Court of Military Appeals reversed, somewhat confused over the military judge's misapprehension of the object of the suppression motion. In another case the Court of Military Appeals found the military judge applying an improper standard to deny a request for a material character witness. Faced with the failure of the parties to secure the accused's former commanding officer as a witness because his presence at a service school made him unavailable, the military judge erroneously construed the standard for availability as one of "military necessity" and not only denied the defense request for the production of the witness, but also refused a defense request to depose the witness or hold a weekend session to facilitate his presence.¹³ The military judge was reversed because of prejudice to the accused; that "the sole factor for consideration in determining whether he will testify at all is the materiality of his testimony;"¹⁴ and that it mattered not whether other character witnesses testified on the merits or the parties stipulated to the testimony of the requested witness prior to sentencing.¹⁵

In addition to scrutinizing the military judge's handling of the issues in instructions and rulings, the Court of Military Appeals has addressed the military judge's obligation to act in instances of improper argument by trial counsel.¹⁶ In a contested rape case the trial counsel's presentencing argument urged court members to place themselves in the position of the victim's husband in determining an appro-

priate sentence.¹⁷ The defense counsel belatedly registered his objection to the improper argument and requested a mistrial. Rather than protecting the trial from reversible error the trial judge inappropriately invoked waiver under the circumstances. The Court of Military Appeals was especially disturbed because "a judicial officer acknowledged on the record that error was present . . . [Y]et he elected to do nothing rather than declaring a mistrial."¹⁸

Finally, the military judge may be charged with a special responsibility in conducting the *Care*¹⁹ inquiry in cases involving pretrial agreements. In *United States v. Elmore*,²⁰ the Court of Military Appeals held the military judge's questioning of defense counsel as to his desires with respect to raising any motions effectively negated the possibility of the latter's construing the terms of a pretrial agreement to prohibit such action.²¹ Chief Judge Fletcher, concurring, indicated that he will view a military judge's failure to inquire into plea bargains as a matter going to the providence of the accused's plea. Indeed, the chief judge stated that the military judge must ensure on the record that the accused comprehends each condition of any pretrial agreement, and when the military judge believes conditions "violate either appellate case law, public policy, or the trial judge's own notions of fundamental fairness, he should, on his own motion, strike such provisions from the agreement with the consent of the parties."²²

There is no doubt today that the Court of Military Appeals, and Chief Judge Fletcher in particular, expect the military judge to assert wide-sweeping control in military criminal cases. Even in the case where a command has promulgated its own speedy trial rule, the so-called "45-day rule" in Europe,²³ the judiciary has "the right as well as the duty to assure government compliance with the terms of the 45-day rule."²⁴ With the trial judge carrying a greater responsibility in the trial of military criminal cases there is also a greater danger attendant upon the trial judge's enhanced role. Because the Court of Military Appeals has determined in *United States v. Wave*²⁵ that a

military judge can no longer be reversed by a convening authority pursuant to paragraph 67f of the *Manual*²⁶ the government, in effect, is left with "no means of appeal from an adverse ruling of the trial judge."²⁷ Clearly in certain cases, for example those involving speedy trial²⁸ or jurisdictional motions,²⁹ the finality of the military judge's ruling may cause some frustration. It is therefore essential that all concerned with the military justice system be aware of the far-reaching implications in recent decisions of the Court of Military Appeals which expand the power and responsibility of the military trial judge. Truly, he is more than a "mere referee" today; he not only must spot the foul and blow the whistle, but at times he must take the foul shot himself to offset the government's supposed home court advantage.

Notes

1. *United States v. Graves*, 23 U.S.C.M.A. 434, 436, 50 C.M.R. 393, 396 (1975).
2. Remarks by Chief Judge A. B. Fletcher, Jr. to Military Judicial Seminar in Monterey, CA on December 6, 1975, *The Continuing Jurisdiction Trial Court*, THE ARMY LAWYER, Jan. 1976, at 6. The areas wherein the command function in the military may supersede the jurisdiction of the trial court are clearly delineated: (1) the command function must be paramount at the time of initial apprehension, initial arrest, or initial confinement; (2) after an Article 32 investigation, the command must have an opportunity to determine its needs without judicial interference; (3) when the findings are completed including a hearing on a motion for a new trial heard by the same judge that heard the case, then the command structure may suspend the execution of any sentence except the death penalty.
3. *United States v. Graves*, 50 C.M.R. 393 (A.C.M.R.) 1975).
4. *MANUAL FOR COURTS-MARTIAL, UNITED STATES*, 1969 (Rev. ed.) para. 140(a)(2) [hereinafter cited as MCM].
5. *United States v. Graves*, 23 U.S.C.M.A. 434, 50 C.M.R. 393 (1975).
6. *United States v. McGee*, 23 U.S.C.M.A. 591, 50 C.M.R. 856 (1975).
7. *Id.* at 593, 858.
8. *United States v. Johnson*, 23 U.S.C.M.A. 514, 50 C.M.R. 653 (1975).

9. *United States v. McGee*, 23 U.S.C.M.A. 591, 592, 50 C.M.R. 856, 857 (1975).
10. *United States v. Hale*, 24 U.S.C.M.A. 134, 134-35, 51 C.M.R. 324, 324-25 (1976) (emphasis by the court).
11. *Id.* at 136, 326.
12. *United States v. Ward*, 23 U.S.C.M.A. 572, 50 C.M.R. 837 (1975).
13. *United States v. Carpenter*, 24 U.S.C.M.A. 210, 51 C.M.R. 507 (1976).
14. *Id.* at 212, 509.
15. *Id.*
16. *United States v. Shamberger*, 24 U.S.C.M.A. 203, 51 C.M.R. 448 (1976).
17. *Id.* at 204, 449.
18. *Id.* at 205, 450. Judge Cook, dissenting, noted that objections to improper arguments must be timely, that is, made at the time of the comment. Because the objection here was not made until after sentencing instructions had been given to the court members, he would have sustained the trial judge in his invocation of waiver.
19. *United States v. Care*, 18 U.S.C.M.A. 535, 40 C.M.R. 427 (1969).
20. *United States v. Elmore*, 24 U.S.C.M.A. 81, 51 C.M.R. 254 (1976).
21. *Cf. United States v. Holland*, 23 U.S.C.M.A. 442, 50 C.M.R. 461 (1975), and *United States v. Kapp*, 23 U.S.C.M.A. 442n, 50 C.M.R. 461n (1975).
22. *United States v. Elmore*, 24 U.S.C.M.A. 81, 51 C.M.R. 254 (1976). This case noted that the military judge's "notions of fundamental fairness" may lead him into difficulty if he abrogates his judicial responsibility to adjudge independently an appropriate sentence because of his exposure to the terms of a pretrial agreement. *See United States v. Morrell*, C.M. 431721 (A.C.M.R. 24 Dec 75) and *United States v. Hewett*, S.P.C.M. 11434 (A.C.M.R. 13 Jan 76).
23. Under U.S. Army Europe Supplement 1 to Army Reg. No. 27-10 (16 Sept. 1971), absent defense delays or those caused by exceptional circumstances, an accused upon written application to the general court-martial convening authority is entitled to dismissal of charges after a lapse of 45 days from the earlier of the date charges are preferred or the date of imposition of any pretrial constraints. The general court-martial convening authority's decision is appealable to the Commander-in-Chief, U.S. Army Europe and Seventh Army.
24. *United States v. Dunks*, 24 U.S.C.M.A. 71, 51 C.M.R. 200 (1976).
25. *United States v. Ware*, 24 U.S.C.M.A. 102, 51 C.M.R. 275 (1976).
26. MCM, para. 67f.
27. *United States v. Rowel*, 24 U.S.C.M.A. 137, 138, 51 C.M.R. 327, 328 (1976). (Chief Judge Fletcher concurring.)
28. *United States v. Rowel*, 24 U.S.C.M.A. 137, 51 C.M.R. 327 (1976).
29. *Mangsen v. Snyder*, 24 U.S.C.M.A. 107, 51 C.M.R. 280 (1976).

The Problem Of Privileges For Local National Dependents in Germany

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Introduction.

This article is composed of a hypothetical problem composed by Major Richard E. Cumming and the proposed solution to which Captain Richard B. Johns contributed greatly. The problem of privileges for local national dependents is a particularly delicate issue. This list of entitlements represents the opinion of a judge advocate working in Germany and is published as a helpful guide for others dealing

with similar problems. It is not intended to apply to countries other than Germany nor even to be definitive as to local national dependent privileges in the Federal Republic of Germany.

Facts.

It is summer. You receive a formal request for opinion by the Mannheim Military Community IG who has received a complaint from a new military judge. In essence the complaint

is that Germans are living in family quarters in the American housing area and consequently quarters are not available for the judge and his family. Investigation reveals that the quarters are occupied by Mrs. Karl Schmidt and her dependent husband Mr. Karl Schmidt, plus children from former marriages. Mrs. Schmidt is a U.S. citizen employed by the Army as a GS-9. Mr. Schmidt is a German national employed by Mercedes Benz. The quarters were initially occupied by Mrs. Schmidt and her children when she was single. She married Mr. Schmidt in June and he moved in with his children shortly thereafter. Mr. & Mrs. Schmidt both drive automobiles bearing U.S. Army Europe plates. The Schmidts also use the tennis courts and other recreational facilities available in the military community. Mrs. Schmidt has applied for a ration card and an unrestricted ID card for her dependent husband.

Response.

Annex B, USAREUR Regulation 600-700 makes the full range of individual logistical support available to DoD civilian employees and their "bona fide" dependents in accordance with applicable regulations. This language does not grant Department of the Army Civilian the same privileges as military personnel since the regulations which govern each type of privilege must be consulted.

1. *Identification and Ration Cards.* Paragraph 40-6 and paragraph 3a, Army Regulation 606-5 instruct the issuer of privilege cards to examine the individual regulations governing each type of privilege. The issuer is responsible not to issue a card granting unauthorized privileges to an applicant. Mr. Schmidt is entitled to an I.D. card.

The issuance of ration cards in Germany is governed by US Army Europe Regulation 60-4. Paragraph 4 of that regulation refers to Annex A, USAREUR Supplement 1 to Army Regulation 60-20 (Exchange Service) to determine eligibility for ration cards. That regulation specifically includes "a lawful husband

(of a civilian employee), without demonstration of actual dependency" as a person entitled to exchange services. The ration card (AE Form 1150) allows a purchaser access to tax free coffee, tea, tobacco products and liquor. Mr. Schmidt is entitled to a ration card.

2. *Commissaries.* Paragraph 11-11, Change 6 of AR 31-200 refers to international agreements affecting sale of duty free items, to determine who is entitled to commissary privileges overseas. Article I, subparagraph 1, of the NATO Status of Forces Agreement defines dependents as the spouse of a member of a force or of a civilian component, or a child of such a member depending on him or her for support. Under this definition, Mr. Schmidt qualifies as a dependent for commissary patronage purposes.

3. *Post Exchange.* Paragraph 3-10, Army Regulation 60-20 states that civilian employees and their dependents are entitled to exchange privileges in overseas areas to the extent authorized by international agreements. For the purpose of this regulation, dependents are defined as a lawful spouse, legitimate and unmarried children under 21 years of age, and step children or adopted children unmarried and under 21 years of age who are, in fact, dependent for over half of their support (*supra*, Appendix A-7). Annex C of the USAREUR Supplement 1 to AR 60-20 also refers to international agreements to determine dependency, and further states that "The term dependent . . . includes a lawful husband without demonstration of actual dependency". Mr. Schmidt is therefore entitled to exchange privileges.

4. *Medical Care.* Military medical treatment facilities are governed by Army Regulation 40-3. Paragraph 4-22 of that regulation states that "U.S. citizens who are employees of the Department of Defense . . . and their dependents may receive care in the Army MTF's outside the United States." Paragraph 1-2c(3) defines dependents for this purpose as spouses, and children (legitimate or adopted, or a legitimate stepchild) who are unmarried and under 21 years of age regardless of whether or

not dependent on the sponsor. Mr. Schmidt and his children may thus receive medical care from the U.S. Forces.

5. *Movie Theaters.* Paragraph 3-10h of Army Regulation 28-62 refers to overseas movie theaters and would permit Mr. Schmidt to use the theaters "subject to restrictions that oversea commanders may impose." Paragraph 18 g, USAREUR Regulation 28-125 states that immediate family members who are part of the household of U.S. civilians may use Army Theaters. Mr. Schmidt and his children are therefore entitled to use the theaters.

6. *Post Offices.* According to paragraph 4(13), Army Regulation 65-10 dependents of U.S. citizen employees of the Department of Defense serving overseas are entitled to use the APO. As dependents are defined in the NATO/SOFA Mr. Schmidt is entitled to use the American Post Office.

7. *Alcoholic Beverages.* Class VI privileges are governed by USAREUR Regulation 230-70. Paragraph 18 of that regulation lists authorized patrons of Class VI stores, and includes spouses of civilian employees. Mr. Schmidt is entitled to these privileges.

8. *Housing.* The housing regulations (AR 210-50; USAREUR Regulation 210-50) refer to paragraph C 1100 of the Joint Travel Regulations for a definition of a dependent of a DoD civilian employee. That paragraph lists a spouse, and children (including stepchildren and adopted children) who are unmarried and under 21 years of age, or incapable of self-support, regardless of age, as dependents of DoD civilian employees. The term dependent has this definition "regardless of an employee's sex." These dependents must, however, have this status and be a member of the employee's household at the time the DoD civilian employee reports for duty at his permanent duty station or performs an authorized renewal agreement. There is no requirement that a sponsor prove actual dependency for the purpose of obtaining government housing for a dependent. Inquiry reveals that Mrs. Schmidt

executed a renewal agreement within a week of her marriage. Mr. Schmidt and his children may therefore lawfully reside in the U.S. Army housing area merely by reason of their relationship to Mrs. Schmidt.

9. *Transportation.* Transportation of DoD civilian employees is governed by Army Regulation 55-46. Change 12 of that AR, paragraph 3f(2) refers the reader to paragraph C1100 of the JTR. The result is the same as that for housing. As Mrs. Schmidt has executed a renewal agreement subsequent to her marriage her new dependents are entitled to a ticket to the United States furnished by the U.S. Forces.

10. *Shipment of Personal Property.* Army Regulation 55-71 and Chapter 7 of the Joint Travel Regulations deal with the shipment of household goods. As Mrs. Schmidt arrived in the command with dependents it appears that her weight allowance does not increase even though she has acquired new dependents and executed a renewal agreement.

11. *Driver's License.* USAREUR Regulation 190-2 controls the issuing of driver's licenses. That regulation refers to the NATO/SOFA, and specifically includes male spouses as eligible for a license even though they are not financially dependent on their sponsor. Thus, if Mr. Schmidt can pass the test and afford the fee he will be licensed to drive a privately owned vehicle by Headquarters, United States Army, Europe.

12. *Automobile Registration.* Paragraph 5f of USAREUR Regulation 190-3 states that husbands of members of the civilian component who are not financially dependent on their sponsors may not register a POV even if they are eligible for a driver's license. This provision is of questionable legality. Paragraph 6 of the same regulation, however, states that "accompanied personnel (those with dependents in the command)" are authorized to register not more than two privately owned vehicles. Inquiry reveals that both of the Schmidt's automobiles are registered in Mrs. Schmidt's name.

13. *Gasoline Coupons.* Sale of gasoline coupons is governed by USAREUR Regulation 700-231 which refers to the NATO/SOFA and allows dependents to purchase. Paragraph 4g of that regulation requires a dependent husband to be actually dependent upon the sponsor for at least 50% of his support before he may purchase POL coupons. This provision is of questionable legality but of no practical effect on the Schmidt's life style. Inquiry reveals that all gasoline coupons for the Schmidt's automobiles have been purchased by Mrs. Schmidt. Thus Mr. Schmidt may continue to enjoy tax free gasoline.

14. *Recreation Facilities and Armed Forces Recreation Centers.* Tennis courts, craft shops, libraries, photo labs etc. are controlled by Army Regulation 28-1 and the USAREUR Supplement 1 thereto. Table 1-1 of the AR indicates that DA civilian employees residing on an installation and their dependents have third priority for the use of recreation facilities. First priority supposedly belongs to active duty personnel assigned to the installation and their dependents; second priority is to other active duty personnel and their dependents. There is a substantial question as to how Private First Class Sadsack is supposed to enforce his priority. Can he "bump" a dependent off the tennis court? The regulations contain no definition of dependent but if the NATO/SOFA definition is applied Mr. Schmidt is clearly entitled to use the recreation facilities. Interestingly enough his children (Mrs. Schmidt's stepchildren) are not dependents under the SOFA definition as they have no legally enforceable right to support from Mrs. Schmidt. They might be allowed to use the recreation facilities, in the lowest priority, due to the fact that such facilities can be made available to members of the civilian community on such a basis. Inquiry reveals that Mrs. Schmidt intends to adopt her stepchildren in the near future. When that happens they will become dependents under the SOFA definition.

The Armed Forces Recreation Centers at Berchtesgaden, Garmisch and Chiemsee are governed by USAREUR Regulation 28-110.

Annex A of that regulation lists civilian employees and their dependents as authorized users. As there is no definition of dependents the result in the case of the Schmidt's is the same as eligibility for other recreation facilities.

NOTE: The above is by no means an exclusive list of logistical support furnished individuals by the U.S. Army in Europe. Excluded, for example, are dependent schooling and general educational development services, legal assistance, local transportation (the Army commuter bus from Mannheim to Heidelberg), transient billets, quartermaster laundry and dry cleaning, Army Community Services, and mortuary services.

References.

1. North Atlantic Treaty Organization, Status of Forces Agreement, Articles I, XI
2. Joint Travel Regulations
3. Army Regulations 606-5 w/Changes 5-9, 15 Feb 67 (ID Cards, Tags and Badges)
4. AR 20-50 w/Changes 1-16, 6 Jan 71 (Family Housing Management)
5. AR 31-200 w/Changes 1-10, 13 Feb 68 (Army Commissary Operating Procedures)
6. AR 60-20, 21 Mar 74 (Exchange Service)
7. AR 40-3 w/Change 1, 17 Sep 73 (Medical Services)
8. AR 55-46 w/Changes 1-13, 15 Oct 64 (Transportation and Travel)
9. AR 28-62 w/Change 1, 3 Apr 72 (Theaters)
10. AR 55-71 w/Change 1, 1 May 72 (Shipment of Household Goods)
11. AR 65-10, 5 Jul 74 (Use of the Army Postal Service)
12. AR 28-1, 15 Oct 73 (Army Recreation Services)
13. US Army Europe Regulation 210-50 w/

- Change 1, 13 Feb 73 (Assignment, Use and Termination of Government Quarters)
14. USAREUR Reg 230-70 w/Changes 2-3, 10 Jul 72 (Class VI Ration Policy)
 15. USAREUR Reg 700-231, 29 Oct 68 (Retail Sales of POL)
 16. USAREUR Reg 190-2 w/Change 5, 23 Jun 70 (Driver's Licenses)
 17. USAREUR Reg 190-3 w/Change 2, 29 Oct 70 (Vehicle Registration)
 18. USAREUR Reg 28-125, 26 Mar 75 (Theaters)
 19. USAREUR Reg 60-4 w/Change 3, 4 Aug 66 (European Exchange Service Ration Policies)
 20. USAREUR Reg 600-700, 24 Mar 75 (Individual Logistic Support)
 21. USAREUR Reg 28-110, 18 Sep 74 (Armed Forces Recreation Centers)
 22. USAREUR Supplement 1 to AR 60-20 w/Change 1, 7 Dec 71
 23. USAREUR Supp 1 to AR 28-1, 17 Dec 71

Judiciary Notes

From: U. S. Army Judiciary

1. Recurring Errors and Irregularities.

a. June 1976 Corrections by A.C.M.R. of Initial Promulgating Orders:

There were four cases in which the particular command failed to set forth the proper words or figures in the specifications of a charge, as reflected in the record of trial itself.

b. In order to comply with a recent opinion of the Court of Military Appeals, staff judge advocate offices in the field should assure that the following matters are accomplished:

(1) The military judge should authenticate the record of trial in all cases except when he is in fact absent and locating and utilizing him to authenticate the record would result in a violation of the *Dunlap* speedy disposition standard. See *United States v. Cruz-Rijos*, No. 30,908 (U.S.C.M.A. 25 June 1976) interpreting the "absence" provision of para. 82f, MCM. See also Trial Judge Memorandum Number 98, dated 1 June 1976.

(2) The "Receipt for Copy of Record" or "Certificate in Lieu of Receipt," should be signed and dated to reflect that the accused has been furnished with a copy of the record immediately after authentication, and before the

convening authority has taken his action. If the accused has been transferred to a location different from that of his trial defense counsel, the transcript together with a copy of the SJA review may be served on his counsel in accordance with the guidelines of *United States v. Goode*, 23 U.S.C.M.A. 367, 50 C.M.R. 1 (1975). A record of such service should also appear in the court-martial file. *Cruz-Rijos*, *supra*.

2. Administrative Notes.

a. *Trial Judge Memo*. Trial Judge Memorandum 98, Subject: Preparation and Authentication of Record of Trial, dated 1 June 1976, has been sent to the field and should be consulted. The memorandum will be reprinted in its entirety in 76-7 JALS.

b. *Army Procurement Procedure*. The following discussion on recent revisions to Appendix A of the Army Procurement Procedure (APP) was prepared by Captain Thomas A. Morris, Jr., Contract Appeals Division, USALSA.

(1) Several revisions to Appendix A of the Army Procurement Procedure (APP) which relate to the handling and processing of disputes before the Armed Services Board of

Contract Appeals, became effective on 1 July 1976. Appendix A of the APP details the minimum procedures and actions to be taken by all Army procurement activities after an appeal has been taken from a contracting officer's decision under the "disputes" clause. The significant recent additions to APP, Appendix A, include:

(a) To obtain early visibility of the matters in controversy, copies of the contracting officer's final decision and the findings of fact should accompany the prompt forwarding of the contractor's notice of appeal to the Office of the Chief Trial Attorney;

(b) To assist in the preservation of potential evidence in cases involving the Defense Contract Administration Services offices, contracting officers shall advise cognizant elements of DCAS to maintain all pertinent documents;

(c) The new APP features an expanded treatment on the trial attorney's litigation file (formerly the comprehensive report). This file furnishes the trial attorney with in-

tragovernment correspondence and advisory discussion related to the dispute and should be a substantial aid in the initial development of the government's case. The file is prepared for the trial attorney and is not forwarded to the appellant. In complying with the revised APP, Appendix A, the contracting officer should ensure the litigation file provides the trial attorney with telephone numbers of potential witnesses and particularized witness statements. Each signed witness statement should include a summary of expected testimony, which is correlated with the contract records, events and any relevant background information. The previously existing requirements for a thoughtful and thorough discussion by the contracting officer of the parties' positions and a memorandum and analysis on the legal issues involved by the contracting officer's legal advisor were not changed.

(2) Army procurement personnel at all levels are reminded of the useful instructional material contained in APP, Appendix A, and are urged to review the revised edition to ensure compliance with its requirements.

Criminal Law Items

From: Criminal Law Division, OT JAG

1. **Post-Trial Delays.** The Appellate Divisions continue to receive cases in which no explanation is offered for lengthy post-trial delay. These underscore the desirability of including in the post-trial review a discussion of the processing of any case in which there is an exceptional period of delay in the completion of initial review, especially where the rule of *Dunlap v. Convening Authority*, 23 U.S.C.M.A. 135, 48 C.M.R. 751 (1974), applies.

Where there is a possible violation of the 90-day *Dunlap* rule, the post-trial review should reference the *Dunlap* decision, set forth the presumption contained therein, and explain whether the presumption is applicable to the case. Any justification for delays in excess of 90 days should be supported by recitals of

the extraordinary circumstances sufficient to defeat the presumption of a denial of the right to speedy disposition.

The practice of discussing post-trial delay in the post-trial review should have two incidental benefits. Foremost, it assures that the review will be written while any extraordinary circumstances causing delays are fresh in the memory of the Staff Judge Advocate and eliminates the necessity for the Government Appellate Division having to argue against the *Dunlap* presumption with affidavits taken after memories have faded. Furthermore, although informing the convening authority of delays in post-trial processing may prove embarrassing to the Staff Judge Advocate concerned, the practice of including such a discussion

should reduce the likelihood that delays will actually occur. In order to provide the convening authority with a full discussion of post-trial delay, the Staff Judge Advocate must keep accurate records as to the reason for the delay. These records should promote attention to processing. Inattention is the primary cause of post-trial delay.

2. Article 15s. Two recent applications to the Army Board for Correction of Military Records are of general interest to all judge advocates. In each case, the applicant requested removal of an Article 15 from his records on grounds that the officer who imposed punishment considered evidence which resulted from an illegal search and seizure. In each case it was determined that consideration of evidence which would be inadmissible at trial does not constitute sufficient basis for the ABCMR to grant relief on grounds of legal error. Article 15 proceedings are not litigation. Although the individual has the opportunity to introduce matters in defense and in extenuation and mitigation, no evidence is presented by the government. As there is no introduction of evidence, the question of admissibility is not presented for review.

A person offered nonjudicial punishment has the right to consult with counsel prior to deciding whether he wishes to demand trial by court-martial. If, after receiving the advice of counsel, he wishes to contest the admissibility of evidence on the basis of illegal search and seizure and preserve the question for appellate review, he should demand trial.

3. Appellate Rights. The text of this recent priority message is reproduced for the benefit of all judge advocates.

SUBJ: Procedures for Advising a Convicted Service Member of his Appellate Rights

The judges of the Court of Military Appeals have, during some recent appellate arguments, expressed displeasure with the methods used in advising a convicted ac-

cused of his rights on appeal. The adequacy of such advice is an issue in a case (*U.S. v. Palenius*) currently pending before the U.S.C.M.A.

Pending a decision in the *Palenius* case, it is suggested that additional procedures be adopted to assure that each convicted accused is properly advised as to his appellate rights. A certification of advice to accused of appellate rights, as set forth at Appendix XXII, DA Pam 27-10, or a similar form should be executed and attached to every record of trial. The accused should be asked to countersign the form as an indication that he has been fully advised.

In addition, procedures must be developed to assure that an accused on excess leave pending completion of appellate review can be contacted so a copy of the A.C.M.R. opinion can be served on him. Since 1 Jan 76 the USDB Correctional Holding Detachment has been sending a form letter monthly to the accused's last known address, along with a self-addressed envelope, requesting his whereabouts and any plans to move. This procedure has increased the number of accused remaining in contact with the Army. Suggested that a similar procedure be adopted to make an accused on excess leave more accessible for service of the A.C.M.R. decision.

4. Normal Administrative Problems Will Not Justify Failure To Comply With the *Dunlap* Requirements. *United States v. Spears*, C.M. 433029 (A.C.M.R. 27 April 1976) will not be published in the C.M.R.'s. However, all staff judge advocates should be aware of this case because it clearly demonstrates that normal administrative problems will not justify failures to comply with the speedy disposition requirement of *Dunlap v. Convening Authority*, 23 U.S.C.M.A. 135, 48 C.M.R. 751 (1974). In *Spears* the appellant was in confinement for 129 days between the conclusion of his trial and the promulgation of the convening authority's action. The Government listed several

reasons to explain this delay including a record of over 600 pages, a malfunction of the court recording equipment, the complexity of the case, the illness of the staff judge advocate, and the problems involved in transmitting the record between the offices of the staff judge advocate and the trial judge which were located 200 miles apart. The court refused to accept a combination of manpower shortage, administrative inefficiency and undependable equipment as a justification for failing to meet the *Dunlap* requirement. The court set aside the findings of guilty and the sentence and dismissed the charges due to this delay of over 90 days. Staff judge advocates should ensure that their offices comply with the time limits established by the United States Court of Military Appeals.

5. Reference to AR 190-47 in Post-Trial Review. Despite previous guidance, trial records continue to be received indicating that con-

vening authorities have not been apprised by staff judge advocates of the provisions of paragraph 6-22b, AR 190-47, 15 December 1975, in appropriate cases. Paragraph 6-22b, AR 190-47, provides that any sentence imposed on an enlisted person that exceeds forfeiture of two-thirds pay per month for six months should be remitted by the convening authority unless the sentence includes, and the convening authority approves, a punitive discharge or confinement unsuspended for the period of such forfeitures. The policy stated in paragraph 6-22b has long been recognized in military law and is based upon sound reasons. To require an enlisted man to perform full duty in a nonpromotable status at reduced pay over an extended period of time would reduce his incentive to perform well and lessen the probability of his rehabilitation. See *United States v. Stroud*, 44 C.M.R. 480 (A.C.M.R. 1971); *United States v. Bumgarner*, 43 C.M.R. 559 (A.C.M.R. 1970).

Legal Assistance Items

By: Captain Steven F. Lancaster,
Administrative and Civil Law Division, TJAGSA

1. ITEMS OF INTEREST.

Family Law—Divorce—Effect of Soldiers' and Sailors' Civil Relief Act. Under section 200(3) of the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. APP. § 520) a court may appoint an attorney to represent a service member who is a party to an action when the service member either does not personally appear or is not represented by an authorized attorney. The same section further provides that an attorney so appointed has no power to waive any right of the service member for whom he is appointed or bind him by his acts. This limitation on the appointed attorney's power directly affects the absent service member who does not desire to contest a divorce.

The West Virginia Supreme Court of Appeals decision in the case of *Boken v. Boken*,

as reported in the Family Law Reporter (2 FAMILY L. REP. 2568 (29 June 1976)), addresses the effect of the limited power of an attorney appointed under the above described section and points out the consequence to the service member. The court affirmed a trial court's refusal to grant a divorce even though the serviceman husband did not desire to contest the divorce, had personally accepted service of process, signed a separation agreement regarding support and custody of the children, and signed a waiver of his rights under the Soldiers' and Sailors' Civil Relief Act. It based its decision on the appointed attorney's lack of power to answer and confess allegations in the wife's complaint for divorce. The court pointed out that the attorney could have answered and confessed if he had appeared as personal attorney for the defendant. Legal assistance officers should keep in mind

the effect of the limited power of an attorney appointed under the Act when advising service members concerning no contest divorces. [Ref: Ch. 20, 40, DA PAM 27-12]

2. ARTICLES AND PUBLICATIONS OF INTEREST.

Family Law—Divorce and Separation—Custody. Note, Child's Due Process Right to Counsel in Divorce Custody Proceedings, 27 HASTINGS L. J. 917 (1976).

[Ref: Ch. 20, 22, DA PAM 27-12]

Family Law—Divorce and Separation—Tax Considerations. R. L. Hjorth, *Tax Consequences of Post-Dissolution Support Payment Arrangements*, 51 WASH L. REV. 233 (1976); Comment, *Federal Income Tax Treatment of Gains and Losses in Divorce and Separation Property Settlements*, 20 ST. LOUIS U.L.J. 181 (1975).

[Cross-reference: *Legal Assistance Items*, THE ARMY LAWYER, Mar. 1976 at 17 and May 1976 at 23.]

[Ref: Ch. 26, 41, DA PAM 27-12]

Federal Income Taxation—New Developments. M. G. Briner, *Federal Income Tax Developments*: 1975, 9 AKRON L. REV. 411 (1976). [Ref: Ch. 41, DA PAM 27-12]

Legal Research Papers—Legal Assistance Subjects—Loan Copies. In *Legal Assistance Items*, THE ARMY LAWYER, July 1975 at 35, it was announced that a limited number of legal research papers written by JAG Reserve Officers as a part of the Advanced Correspondence Course would be available to JAG Officers upon request. Papers then on file or being written were listed in that note. That list was then updated in *Legal Assistance Items*, THE ARMY LAWYER, Sept. 1975, at 40. To continue to update those lists the following papers should be added:

Presently On File.

Baldwin, "The Survivor Benefit Plan—When Electing an Annuity May be Wise."

Baxley, "A Critical Analysis of Opinions of the Attorney General of Alabama Relating to Benefits Offered Servicemen and Veterans Under Alabama Law."

Cohen, "The Uniform Support of Dependent's Law of New York and the Military."

Coleman, "The Right of the Soldier to State Services in Ohio."

Cook, "The Right of the Soldier to State Services in Vermont."

Duffy, "The Uniform Probate Code as It Effects the Serviceman."

Fong, "The Legal Status of the Serviceman or Veteran in Hawaii."

Gibson, "Connecticut State Law Concerning Garnishments and Attachments for Enforcement of Child Support and Alimony Obligations of Federal Employees Including Army Personnel."

Haythe, "Military Members and Their Dependents Outsiders in Participatory Consumerism? A Proposal for an Expanded Role in Legal Assistance."

Hyter, "Garnishment Laws of Kansas."

Jeglikowski, "Establishment of the Expanded Legal Assistance Program. A Case Study: Fort Ord, California."

Phillips, "Defending Actions Under the Mississippi Small Loan Regulatory Act for Low Ranking Servicemen."

Popken, "Some Provisions of the Immigration and Nationality Act as It Relates to Members of the Armed Forces and their Dependents."

Shaff, "The Serviceman in Texas: His Rights in Civil Actions."

Staiti, "Pilot Legal Assistance Program in Massachusetts."

Timm, "Capturing the Elusive Non-Supporting Serviceman—the California Garnishment Law."

Walker, "The Legal Procedure for Enforcement of the Serviceman's Child Support and Alimony Obligations in Tennessee."

Presently Being Completed (Exact titles subject to change).

Anderman, "Prepaid Legal Services Programs: A Model for the Military or Vice Versa?"

Baker, "Garnishment of Military Personnel's Wages Under the Kentucky Revised Statutes."

Cinnamon, "IRS Record Keeping Requirements, Retention and Sanctions."

Elliott, "Garnishment in the State of Wisconsin."

Faricy, "Legal Assistance: Judicial Commitment for Inebriety and Mental Illness, Procedures and Legal Review (State of Minnesota)."

Gardiner, "Garnishment and Attachment Proceedings in Indiana."

Gillum, "Evidence of Fault in No-Fault Divorce."

Griffith, "Paternity and the Military Lawyer."

Ivill, "The Current Viability of and Need for the Soldiers' and Sailors' Civil Relief Act."

Kastl, "Effective Base-Level Preventive Law."

Kelly, "Application and Use of the Immigration Laws of the U.S. by the Legal Assistance Officer."

Mann, "Comparison Between Straight Bankruptcy and Ch XIII of the Bankruptcy Act with Regard to Servicemen."

Ross, "The effects of Florida's No Fault Automobile Insurance Law Upon the Serviceman."

Weir, "Where There's A Will—It's Not Always the Way (A study of the reformulation of the testator's dispositive intent by operation of Louisiana law)."

Written requests for copies of these papers should be mailed to the Deputy Director for Nonresident Instruction, The Judge Advocate General's School, Charlottesville, Virginia 22901.

An Effective Program Of Inhouse Continuing Professional Education for a Relatively Small Legal Staff

*By: Charles W. Sherrer, Division Counsel and
John H. Eft, Assistant Division Counsel, South Pacific
Division, U.S. Army Corps of Engineers*

In his address to the Federal Bar Association at the ABA Annual Meeting in 1969, F. Trowbridge vom Baur commented:

There is a much greater need for continuing legal education for lawyers in the government than for those in private practice. The overemphasis on specialization and the cul-de-sacs into which many government lawyers find themselves driven point strongly to this conclusion.¹

It is the purpose of this article to set forth

the procedures utilized in our inhouse training to hone to a razor's edge the legal skills and capabilities of the 20-odd attorneys (situated in four separate offices with different geographic locations) within our command and, in general, to continually upgrade and improve the professional effectiveness (quality and volume of legal work) of each lawyer.

Area of Responsibility.

The South Pacific Division, U.S. Army

Corps of Engineers, is headquartered in San Francisco. The Division has the responsibility for substantially all Army and Air Force military design and construction (barracks, runways, hospitals, etc.) in nine western states—California, Oregon, Washington, Idaho, Montana, Utah, Nevada, Arizona and New Mexico. The Division also has substantial responsibilities in the design and construction of civil works (dams levees, etc.) projects. The geographic limits of the zone of responsibility for civil works follow watersheds rather than state boundaries. The civil works responsibilities of the South Pacific Division include all or portions of the following states—California, Oregon, Idaho, Arizona, Nevada, Utah, Wyoming, Colorado, and New Mexico. These design and construction responsibilities generate a substantial amount of legal work—including a heavy docket of contractual appeals before the Corps of Engineers Board of Contract Appeals and the Armed Services Board of Contract Appeals. Lawyers assigned to the South Pacific Division are regularly assigned as trial counsel in these appeals.²

Litigation in Federal Courts.

The attorneys for the Corps of Engineers are involved to a great degree in litigation in the United States District Courts and United States Courts of Appeals, primarily to assist the Department of Justice Attorneys. The extent to which this assistance involves actual participation in the trial work depends on such things as the trial experience and skill of the Corps of Engineer lawyers and the workload and staff of the local office of the United States Attorney.³ The Corps of Engineers has historically had substantial responsibilities regarding the acquisition, management, and disposal of real estate under the control of the Department of the Army or Department of the Air Force. These responsibilities have traditionally involved a substantial number of lawyer hours in connection with litigation (particularly condemnation procedures) in the United States District Court.

With the enactment of the National En-

vironmental Policy Act of 1969,⁴ and related legislation, the litigation workload for Corps of Engineer Attorneys in the federal courts again increased. The Corps of Engineers has exercised a high degree of leadership in initiating action to protect and enhance ecological and environmental values. This has resulted in a substantial increase in the workload, particularly in connection with the corps of Engineer permit program.⁵

Decentralization of Responsibility.

One of the primary strengths of the Corps of Engineers has always been its policy of decentralization of authority and delegation of authority⁶ to the lowest level of authority that could discharge that responsibility with efficiency and at a minimum cost (manpower and funds) to the taxpayer.⁷ Consistent with that policy, the South Pacific Division has three Districts under its jurisdiction which perform at the operating level.⁸ Typically, each District has four or more lawyers. The Division has responsibility for the recruitment and continuing professional education of these lawyers as well as staff supervision over all legal functions.

Self-Improvement.

All lawyers in the South Pacific Division are expected to maintain a continuing and comprehensive self-improvement professional development program.⁹ This program typically involves perusing a substantial number of legal periodicals, an in-depth review of the current judicial decisions in the advance sheets, and attendance at local, state, and national bar conferences and seminars.¹⁰ All attorneys are encouraged to prepare manuscripts for bar journals and other scholarly publications and to teach classes in law schools or at the college or university level.¹¹

Objective of Training Program.

In 1973 it was decided to establish within the South Pacific Division a more formalized inhouse continuing professional education and

career development program¹² for the lawyers who work in the Division office or one of the three Districts. Department of the Army Pamphlet No. 690-20, *Training and Development of Executives and Managers*, (1968) provides, in substance, that the achievement of organizational goals can best be accomplished when members of the organization are competent in:

- a. Technical and professional knowledges and skills;
- b. Scientific management and organization;
- c. Those human relations skills which will engender in others the willingness to put forth their best efforts.¹³

In view of the fact that substantially all lawyers within the South Pacific Division are in positions of great responsibility, or have the potential to move into positions of great responsibility, the three criteria set forth above are well integrated into our training program.

Semiannual Sessions.

The key component of the South Pacific Division's continuing professional education program are two-day inhouse legal education programs held twice each year.¹⁴ At these sessions each lawyer (whether he has been on our legal staff two weeks or 20 years) is assigned a time slot (usually 30-50 minutes) in which to make a presentation. All lectures commence and end at the precise time set forth in the typed classroom schedule. This serves to discipline the "teachers" to the concept that they must complete their lecture (with time for questions and answers, if appropriate) within a specific time frame. This "time discipline" will be a very valuable intellectual asset to the lawyers when a court or board allocates them a specific time frame in which to make an opening statement or an oral argument.¹⁵

The lawyer is required to speak from the podium and the minimum acceptable level of performance is that the presentation be of a professional quality comparable to that of a professor teaching a class at one of the highly touted law schools. Substantial discretion is allowed each lawyer in choosing a subject

matter; however, the title of the presentation must be submitted several weeks in advance so that a "class schedule" can be typed and distributed. Several of the lawyers have supplemented and enriched the lectures by the judicious use of slides, training films and other visual aids.

The twin ingredients of the desire for increased prestige among one's colleagues and the increased self-esteem arising from a mission well done have motivated the participants to prepare their lectures in a highly professional manner.

Training Films.

Each of the two class days encompasses seven hours in the classroom with "breaks" of relatively short duration. In order to keep interest at a relatively high level, 60 minutes of classroom type lectures and a 30-minute film are typically scheduled during each 90-minute time frame. The training films encompass such items as legal ethics,¹⁶ environmental concerns, equal employment opportunity practices, and improved supervisory and motivational procedures.¹⁷ The selection of the films is critical. A substantial portion of the legal staff are recent graduates of top-flight law schools (Michigan, Harvard, California, etc.) who would be "turned off" by out-of-date films, films without real substance and merit, or films of an insufficient degree of sophistication to be of interest to lawyers. Training films which have been released within the last 12 months are utilized to the maximum extent practicable. All films are previewed to ensure that the subject matter is treated in a sufficiently sophisticated manner to attract and hold the attention of the students. The films also serve as a "change of pace" for the audience and maintain their receptivity to the factual data being presented in the lectures.

Value to Managers.

If his schedule permits, the Division Engineer is scheduled to make opening introductory remarks at the semiannual training sessions. These opening remarks are followed by an

unstructured discussion (i.e., coffee break) which affords the Division Engineer an opportunity to converse on an informal basis with each of the lawyers on his staff.

Division Counsel considers these inhouse training sessions to be exceedingly valuable because the sessions afford him an opportunity to observe each of the lawyers twice each year in their capacity of teaching a class. The geographic dispersal of these lawyers limits the opportunity for Division Counsel to observe their actions on a day-to-day basis. This two-day session supplements the normal day-to-day observation of the paperwork (correspondence, briefs, pleadings, etc.) prepared by these lawyers which crosses the desk of Division Counsel. The basic legal skills (articulate in oral presentation,¹⁸ adequate research and knowledge of subject matter, etc.) utilized in making professional classroom presentation are also utilized by lawyers in such things as making an oral argument before a court or board, outlining the government's case in an opening statement, or briefing a (nonlawyer) commander or executive. Thus the mental "grades" given by Division Counsel at these semiannual training sessions are given substantial weight by Division Counsel in preparing the annual professional appraisals, in determining an individual's future duty assignments (particularly appointment as trial counsel before the Boards of Contract Appeals) and in evaluating the potential of all lawyers for promotion to positions of higher grade and additional responsibilities.

Nonlegal managers and supervisors may also be invited to share in portions of these training sessions where appropriate. This technique was used in the South Pacific Division to disseminate information about the Privacy Act of 1974, for example. Such sessions have the additional benefit of helping attorneys from widely dispersed locations get to know each other on a more personal basis (our Los Angeles District Office, for example, is about 500 miles from our Division Office in San Francisco). This, in turn, will foster cooperation and sharing of information and ex-

perience among the legal staff as future problems arise within the Division.

Outside Training.

These two-day semiannual inhouse training sessions are supplemental to, but not in lieu of, "outside" training sessions, such as attendance at conferences or seminars sponsored by the American or Federal Bar Association. The Judge Advocate General's School at Charlottesville, Virginia, has some outstanding courses which are considered by the South Pacific Division to be a "must" for the career development of the vast majority of our legal staff at all grade levels.¹⁹ The two-week Harvard Law School Program of Instruction for Lawyers is also an exceptionally fine educational experience, particularly for lawyers at the GS-14 level and above.²⁰

All lawyers are encouraged to apply for attendance at a reasonable number of "outside" schools each year.²¹ All educational activities must be properly integrated into an overall career management program.²²

Conclusion.

Career development and continuing professional education may pose peculiar problems in a command with a relatively small legal staff where the funds for "outside" educational activities may be limited. In any program of this type, however, the secret of success is highly motivated lawyers plus the optimum use of available resources. Regarding the search for such individuals, a leading expert in the field of professional development has written, "The first question to ask a candidate is, 'What have you done recently to become more effective in your present position?'"²³ A well structured "inhouse" continuing education program of the type described above can go a long way toward attracting and keeping lawyers who can give highly satisfactory answers to such a question.

Notes

1. *Care and Feeding of Government Lawyers*, 56 A.B.A.J. 668, 671 (July 1970).

2. Army Reg. No. 27-40, para. 1-3j (1973) mandates that Corps of Engineers lawyers act as trial attorneys in Corps of Engineer contract cases.

3. 28 U.S.C.A. § 543 constitutes sufficient legal authority for the Attorney General to appoint lawyers from the Corps of Engineers (or any other federal agency) to assist the United States Attorney in the trial work.

4. 42 U.S.C. § 4321 *et seq.*

5. 33 U.S.C. § 401 *et seq.*; 33 U.S.C. § 1344.

6. The military departments have traditionally delegated a substantially greater degree of responsibility to the executives in the field than have civilian branches in the government. This maximum delegation of authority and decentralization of responsibility to the executive in the field is consistent with the age old concept that the commanding general at the battlefield is in the best position to make critical decisions regarding the safety of his troops. A widely reported tug-of-war on the question of whether it is better to have decisions made by the executive in the field or the executive in higher headquarters occurred in 1944 during the Anzio invasion when Prime Minister Winston Churchill spoke of a "speedy thrust from Anzio to the Alban Hills", whereas Major General John P. Lucas in command of the forces in battle was primarily concerned with consolidating his beachhead before thrusting inland. Lieutenant General Mark Clark strongly backed Lucas' tactics. Although he was highly criticized at the time, many military historians now feel Lucas' determination may have saved the allied troops from a disastrous flank attack. *See generally*, B.H. LIDDELL HART, HISTORY OF THE SECOND WORLD WAR 529 (1970).

7. Corps of Engineer Reg. No. ER 1-1-10.

8. The Division Engineer of a U.S. Army Engineer Division is typically a brigadier or a major general. District Engineers are typically colonels.

9. Army Civilian Personnel Reg. 410-3 reads, in part, as follows:

Employee training is basically self-development; only the employee can do the real learning. Not only must the employee be motivated to learn, he must also be motivated to use the learning on the job. Given the proper organizational climate, employees will be stimulated and encouraged to grow and develop in effectiveness.

10. FEDERAL PERSONNEL MANUAL 410.8 reads, in part, as follows:

It is the policy of the Department of the Army that employees be afforded the time and opportunity to attend and participate in professional meetings as provided in paragraph C3050, Volume 2, Joint Travel Regulations. The basic criterion is that the purpose and subject of the meeting be

related to the primary duties of the employees attending.

11. Army Reg. No. 600-50, para. 1-12f (Chg 3, 27 Aug. 1975) reads, in part, as follows:

"DA personnel are encouraged to engage in teaching, lecturing, and writing."

12. Such continuing professional education would be consistent with the objectives of the Government Employees Training Act of 1958. 5 U.S.C. § 4103. *See also*, Exec. Order No. 11348, 3 C.F.R. §639 (1966-1970 Compilation).

13. The above criteria are set forth in U.S. DEPT OF ARMY, PAMPHLET No. 690-20, TRAINING AND DEVELOPMENT OF EXECUTIVES AND MANAGERS, para. 13 (1968). This pamphlet is applicable to the training of both military and civilian executives. The philosophy and basic assumptions of this pamphlet are set forth in paragraph six, which reads, in part, as follows:

The Department of the Army regards the training and development of its manpower resources as a vital and necessary factor in the successful accomplishment of its mission. By increasing the effectiveness of its staff, the Department can thereby increase the effectiveness with which it conducts its affairs. Command and management are responsible for the development of the individual to his top potential on the job as the most direct means of achieving efficiency.

* * *

To insure a future staff of competent executives and managers, commanders at all levels will develop and execute definite plans to stimulate growth in managerial ability of military and civilian personnel now employed in executive or managerial positions or showing potential for such positions.

14. It was our hope to schedule these sessions for April and October of each year. However, adjustments to these dates have been made when necessary to avoid conflicts in schedules.

15. Courts and boards typically have specific time frames for such items as oral arguments, and judges are not reluctant to say, in substance, "your time is up" even though the attorney may be in the middle of an important argument. FED. R. APP. P. 34a provides a time limit of 30 minutes for oral argument. Thus, it is essential that attorneys discipline themselves so that they can complete their assigned presentations within a specific time frame.

16. The American Bar Association has films that should be of substantial interest to government lawyers. Information regarding these films may be obtained by communicating with the Audio-Visual Department, American Bar Association, 1155 East 60th Street, Chicago, Illinois 60637. One such film which may be of current interest is a 70-minute 16mm film

narrated by ABA President Lawrence E. Walsh entitled "Lawyer Advertising: A Report to the Bars." This film may be obtained in either film or video cassette form in loan for \$11.00. The State Bar of California Reports (January 1976) 4.

17. U.S. DEPT OF ARMY, PAMPHLET NO. 108-1, INDEX OF ARMY MOTION PICTURES AND RELATED AUDIO-VISUAL AIDS (Chg 1, Oct. 1975) lists audio-visual aids that are of substantial value. The "61 series," (Supervision, Office Operations, Management ADP) contains such items as a five-film "Motivation to Work" package by Dr. Frederick Herzberg, Professor of Psychology, Case Western Reserve University; an eight film "Motivation and Productivity" series narrated by Dr. Saul Gellerman; and a five-film "The Effective Executive" grouping narrated by Mr. Peter F. Drucker. Class participants who wish to delve deeper into the management theories of Gellerman and Drucker are encouraged to read their books. *See generally*, SAUL W. GELLMAN *MANAGEMENT BY MOTIVATION* (1968); PETER F. DRUCKER *THE EFFECTIVE EXECUTIVE*, (1966); PETER F. DRUCKER, *MANAGEMENT, TASKS, RESPONSIBILITIES, PRACTICES* (1974).

18. One of the earliest recorded "management improvement techniques" of the ancient Egyptians recognized the great value of effective oral expression: "Be a craftsman in speech that thou mayest be strong, for the strength of one is the tongue, and speech is mightier than all fighting." Maxims of Ptahhotep [c. 3400 B.C.]

19. Information regarding classes at The Judge Advocate General's School is published monthly in *THE ARMY LAWYER*, DA Pam 27-50 series.

20. The two-week Program of Instruction for Lawyers was held at Harvard Law School at Cambridge, Massachusetts, 19-30 July 1976. This course of study is of great value to federal lawyers who are willing to devote long hours of study during this two-week period. The classes are taught by selected members of the Harvard Law School Faculty.

21. The criteria for selection of employees for training is set forth in the *FEDERAL PERSONNEL MANUAL* 410.20.

22. Sherrer and Sherrer, *The Lawyer's Recognition Award*, 32 *FEDERAL BAR JOURNAL* 26, 27 reads, in part, as follows:

The high level of professional effectiveness on which federal lawyers should be expected to function can not be achieved solely by prescribing minimum amounts of classroom study. Certain aspects of the highly structured and very successful career management program of rotational job assignments and educational courses utilized by the military in planning the careers of their regular officers could be utilized . . . in structuring and proposing an effective career management program for federal lawyers. The educational and rotational job assignment program for military officers (including but not limited to uniformed lawyers) has developed highly sophisticated managerial personnel who have established an enviable record of timely accomplishment of their missions at a minimum cost (manpower and funds) to the taxpayers.

23. P. MARVIN, *THE RIGHT MAN FOR THE RIGHT JOB AT THE RIGHT TIME* 102 (1973).

JAG School Notes

1. **TJAGSA Visitors.** We have had several visitors at the School this summer. Major General Wilton B. Persons, The Judge Advocate General, was here in late July, accompanying Judge Matthew J. Perry, Jr. of the United States Court of Military Appeals, who spoke to our 15th Military Judge Course. Brigadier General Hugh J. Clausen, Chief Judge, US Army Judiciary, was on hand to address the 2d Criminal Trial Advocacy Course/Military Justice II, as were several other distinguished civilian attorneys.

2. **New UVA Law Dean.** TJAGSA extends its heartiest congratulations to the University of Virginia Law School's new dean, Emerson G.

Spies. Dean Spies was named to his new post in July after serving as acting dean of the school for the past several months.

3. **New Faces at TJAGSA.** The summer of '76 has not only brought TJAGSA a new commandant—other new School personnel include: Colonel David L. Minton, who has assumed duties as director of the Academic Department; Lieutenant Colonel Peter J. Kenny, as chief of the Administrative and Civil Law Division, succeeding Lieutenant Colonel Dulaney L. O'Roark, now SJA of the 8th Infantry Division in Germany; Lieutenant Colonel Dennis R. Hunt, new chief of the Criminal Law Division, replacing Lieutenant Colonel George G.

Russell, Jr., now SJA, 1st Infantry Division, Fort Riley, Kansas, and, Major (P) Leonard R. Piotrowski, who served as interim chief and remains as senior instructor in the division.

Other new TJAGSA personnel include: Captain Frank J. Wagner, instructor in the Administrative and Civil Law Division; Captain James E. McMenis, new chief of Career Management, Reserve Affairs, replacing Captain Glenn E. Monroe who is now an instructor in our Procurement Law Division; and Captain Sidney A. Driver, AGC, replacing Captain Richard J. Lynch, AGC, our former Adjutant, who is now at the AG Advanced Course.

4. Conference on Military Law For Legal Educators. In an effort to bring together those civilian and military educators who teach military law, TJAGSA recently sponsored the 1976 Conference on Military Law for Legal Educators. The Conference theme was "Military Law in the Seventies—A Time of Change." Sessions, chaired by TJAGSA faculty members, were conducted in a seminar fashion for maximum interchange of information. Topics

included: Teaching Military Law: Methods, Materials and Objectives (Captain Lederer); Civilian Judicial Review of Military Activities (Majors Corrigan and Strassburg); Government Information Practices (Major Strassburg); Recovery Against the Government in Tort (Major Magers); Developments and Problems in Military Personnel Law (Captain Varo); Recharacterization of Military Discharges (Captain Varo); Changes and Implications in Military Search and Seizure (Captain Cooke); Legal Basis of Command (Major Corrigan); International Law Aspects of Military Practice (Major Taylor); Live Issues in Pretrial Military Criminal Procedure (Major Cooper, Captain Lederer, Captain Cooke); The "New" Court of Military Appeals (Captain Cooke); and the Law of War (Major Green). Plans are now underway for the 1977 Conference on Military Law for Legal Educators to be held in late spring. Details will be available in the fall. Civilian Law School faculty members interested in attending next year's meeting may write Captain Fred Lederer, Criminal Law Division, TJAGSA, Conference Coordinator.

CLE News

1. Fourth NCOES Course (Phase II). On the 26th of July, some 34 senior noncommissioned officers (E-6 & E-7) were on hand at TJAGSA for two weeks of practical instructions at the Fourth NCOES Course. This course of study followed six weeks of Phase I administrative training for the group at Fort Benjamin Harrison.

2. 67th Procurement Attorneys' Course. The two-week 67th Procurement Attorneys' Course will commence at TJAGSA on September 20. The block of instruction will cover the planning, solicitation, award, performance and disputes resolution phases of federal procurement. The course is primarily for the benefit of those government attorneys with less than six months' procurement experience.

3. TJAGSA Courses (Active Duty Personnel).

August 9-13: 6th Law Office Management Course (7A-713A).

August 9-October 8: 81st Judge Advocate Officer Basic Course (5-27-C20).

August 23-May 1977: 25th Judge Advocate Officer Advanced Course (5-27-C22).

August 30-September 3: 14th Federal Labor Relations Course (5F-F22).

September 9-11: JAG Reserve Training Workshop.

September 13-17: 28th Senior Officer Legal Orientation Course (5F-F1).

September 20-October 1: 67th Procurement Attorneys' Course (5F-F10).

October 12-15: JAG Conference.

October 18-December 17: 82d Judge Advocate Officer Basic Course (5-27-C20).

November 1-5: 29th Senior Officer Legal Orientation Course (5F-F1).

November 8-19: 68th Procurement Attorneys' Course (5F-F10).

November 8-12: 1st International Law Instructors Course (5F-F41).

November 30-December 3: 3d Fiscal Law Course (5F-F12).

December 6-9: 3d Military Administrative Law Developments Course (5F-F25).

December 13-17: 2d Allowability of Contract Costs Course (5F-F13).

January 3-7: 5th Military Lawyer's Assistant Course (Criminal Law) (512-71D20/50).*

January 3-7: 6th Military Lawyer's Assistant Course (Legal Assistance) (512-71D20/50).*

January 3-14: 7th Procurement Attorneys' Advanced Course (5F-F11).

January 10-13: 4th Legal Assistance Course (5F-F23).

January 17-20: 5th Environmental Law Course (5F-F27).

January 17-20: 1st Claims Course (5F-F26).

January 24-28: 31st Senior Officer Legal Orientation Course (5F-F1).

January 31-April 1: 83d Judge Advocate Officer Basic Course (5-27-C20).

February 7-18: 69th Procurement Attorneys' Course (5F-F10).

February 28-March 4: 2d International Law Instructors Course (5F-F41).

March 7-10: 4th Fiscal Law Course (5F-F12).

March 14-18: 2d Civil Rights Course (5F-F24).

March 14-18: 2d Civil Rights Course (5F-F24).

March 21-25: 3d Allowability of Contract Costs Course (5F-F13).

April 4-8: 15th Federal Labor Relations Course (5F-F22).

April 4-8: 3d International Law Instructors (5F-F41).

April 6-8: JAG National Guard Training Workshop.*

April 11-15: 32d Senior Officer Legal Orientation Course (5F-F1).

April 11-22: 70th Procurement Attorneys' Course (5F-F10).

April 18-20: 1st Government Information Practices (5F-F28).

May 2-4: 1st Negotiations (tentative title) (5F-F14).

May 2-6: 7th Staff Judge Advocate Orientation Course (by invitation only) (5F-F52).

May 9-13: 4th Management for Military Lawyers Course (5F-F51).

May 9-10: 1st Military Justice I Course (5F-F31).

May 16-20: 3d Criminal Trial Advocacy Course (5F-F32).

May 16-17: 1st International Law II Course (SECRET clearance required) (5F-F40).

May 31-June 3: 6th Environmental Law Course (5F-F27).

June 6-10: Military Law Instructors Seminar.*

June 6-10: 4th International Law Instructors Course (5F-F41).

June 6-17: NCO Advanced Phase II (71D50).

June 13-17: 33d Senior Officer Legal Orientation Course (5F-F1).

June 20-July 1: USA Reserve School BOAC and CGSC (Criminal Law, Phase II Resident/Nonresident Instruction) (5-27-C23).

July 11-22: 12th Civil Law Course (5F-F21).

July 11-29: 16th Military Judge Course (5F-F33).

July 23-August 5: 71st Procurement Attorneys' Course (5F-F10).

August 1-5: 34th Senior Officer Legal Orientation Course (5F-F1).

August 8-12: 7th Law Office Management Course (7A-713A).

August 8-October 7: 84th Judge Advocate Officer Basic Course (5-27-C20).

August 22-May 1978: 26th Judge Advocate Officer Advanced Course.

August 29-September 2: 16th Federal Labor Relations Course (5F-F22).

September 12-16: 35th Senior Officer Legal Orientation Course (5F-F1).

September 19-30: 72d Procurement Attorneys' Course (5F-F10).

• Tentative

SEPTEMBER

7-11: NCDA, Trial Techniques Seminar, Philadelphia, PA. Contact: Registrar, National College of District Attorneys, College of Law, Univ. of Houston, Houston, TX 77004.

9-10: Federal Publications, Labor Relations, Chicago, IL. Cost: \$325.

12: ABA-AMA, National Conference on Representatives, Chicago, IL.

12-17: International Academy of Legal Medicine and Social Medicine, 10th International Congress. Contact: Prof. W. Spann, Institut für Rechtsmedizin of University of Munich, Frauenlobstrasse 7a, 8 Munich, 15 West Germany.

13-15: ABA Center for Administrative Justice, Legal Drafting Techniques [A Seminar for the Environmental Protection Agency], Washington, DC.

14-18: FBA, Annual Convention, The Mayflower Hotel, Washington, DC.

15-17: Federal Publications, George Washington Univ. 23d Annual Institute on Government Contracts, Washington, DC. Cost: \$400.

16-19: NCCDLPD, Advanced Evidence [Northern Half, 9th US Judicial Circuit], Seattle WA. Contact: National College of Criminal Defense Lawyers and Public Defenders, Bates College of Law, Univ. of Houston, Houston, TX 77004. Phone: 713-749-2283. Cost: \$50.

19-24: National College of the State Judiciary, Evidence in Special Courts, Univ. of Nevada, Reno campus, Reno, NV. Contact: Dean, National College of the State Judiciary, Judicial College Bldg., Univ. of Nevada, Reno, NV 89507. Phone: 702-784-6747. Cost: \$345.

19-24: Institute for Court Management, Technology Workshop: Personnel Administration, Executive Tower Inn, Denver, CO.

20-21: FBA-BNA, Briefing Conference on Food and Drug Law, Stouffers International Inn, Arlington, VA.

20-21: Federal Publications, Labor Relations, Las Vegas, NV. Cost: \$325.

21-23: LEI, Law of Federal Employment Seminar, Washington, DC. Contact: Legal Education Institute, ATTN: Training Operations, BT, US Civil Service Commission, 1900 E St. NW, Washington, DC 20415. Phone: 202-254-3483. Cost: \$225.

26-1 Oct.: National College of the State Judiciary Search and Seizure, Univ. of Nevada, Reno campus, Reno, NV. Contact: Dean, National College of the State Judiciary, Judicial College Bldg. Univ. of Nevada, Reno, NV 89507. Phone: 702-784-6747. Cost: \$345.

26-1 Oct.: National College of the State

Judiciary, Evidence, Univ. of Nevada, Reno campus, Reno, NV. Contact: Dean National College of the State Judiciary, Judicial College Bldg., Univ. of Nevada, Reno, NV 89507. Phone: 702-784-6747. Cost: \$345.

28-29: FBA, Federal Energy Law Conference, Hyatt Regency, Washington, DC.

28-30: LEI, Institute for New Government Attorneys, Washington, DC. Contact: Legal Education Institute, ATTN: Training Operations, BT, US Civil Service Commission, 1900 E St. NW, Washington, DC 20415. Cost: \$175.

OCTOBER

7-9: ABA National Institute, Law Office Economics and Management, Chicago, IL.

10-29: National College of the State Judiciary, Regular Four Week Session [Court Administration, Civil Proceedings Before Trial, Judicial Discretion, Family Law, Evidence, Judicial Problems, Jury, Courts and the Community, Sentencing, Criminal Law, Civil Law, Inherent Court Powers & Communication], Univ. of Nevada, Reno campus, Reno, NV. Contact: Dean, National College of the State Judiciary, Judicial College Bldg., Univ. of Nevada, Reno, NV 89507. Phone: 702-784-6747. Cost: \$705.

11-13: Federal Publications, Changes in Government Contracts, Seattle, WA. Cost: \$400.

11-14: Federal Publications, Fundamentals of Government Contracting, New Orleans, LA. Cost: \$475.

13-15: FBA-BNA, Briefing Conference on Federal Contracts, Hyatt on Union Square, San Francisco, CA.

13-15: Federal Publications, Small Purchasing, Los Angeles, CA. Cost: \$400.

13- : [10-week course]: ABA Center for Administrative Justice, Legal Drafting Techniques, Brookings Institution, Washington, DC.

15-16: ALI-ABA, Federal Criminal Prac-

tice and Procedure, Seattle, WA. Contact: Director, Courses of Study, ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, PA 19104.

15-16: ALI-ABA, Practice Under the New Federal Rules of Evidence, Seattle, WA. Contact: Director, Courses of Study, ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, PA 19104.

18-20: Federal Publications, Small Purchasing, Denver, CO. Cost: \$400.

18-22: Univ. of Santa Clara School of Law—Federal Publications, Contract Administration Course [Law, Accounting, Communication, Engineering, Negotiation, Money, Statutes, Regulations, Administration] Aladdin Hotel, Las Vegas, NV. Contact: Seminar Division, Federal Publications Inc, 1725 K St. NW, Washington, DC 20006. Phone: 202-337-8200. Cost: \$525.

19-22: NCDA, Institute on Prosecution of Drug Cases, Kansas City, KS. Contact: Registrar, National College of District Attorneys, College of Law, Univ. of Houston, Houston, TX 77004.

21-22: ALI-ABA-Columbus School of Law of the Catholic Univ. of America, Federal Criminal Practice and Procedure, The Mayflower, Washington, DC. Contact: Director, Courses of Study, ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, PA 19104.

27-29: Federal Publications, Practical Negotiation of Government Contracts, Washington, DC. Cost: \$400.

NOVEMBER

1-2: Federal Publications, Defective Pricing, Washington, DC. Cost: \$325.

1-3: Federal Publications, Government Architect-Engineer Contracting, Miami, FL. Cost: \$400.

1-3: Federal Publications, Competing for Contracts, Washington, DC. Cost: \$400.

1-3: Federal Publications, Small Purchasing, Washington, DC. Cost: \$400.

3-5: Federal Publications, Negotiated Procurement, Las Vegas, NV. Cost: \$400.

5-7: ABA, 7th National Conference on Law Office Economics Management, Crown Center Hotel, Kansas City, MO.

7-10: NCDA, Management in the Prosecutor's Office, Charleston, SC. Contact: Registrar, National College of District Attorneys, College of Law, Univ. of Houston, Houston, TX 77004.

7-12: American Judges Association, Annual Meeting, Las Vegas, NV.

7-12: National College of the State Judiciary, Civil Law Proceedings [State Civil Litigation, Privacy, Class Actions, Student & Faculty Rights, Adhesion Contracts, UCC, Malpractice, Comparative Negligence & Conflicts of Law], Univ. of Nevada, Reno campus, Reno, NV. Contact: Dean, National College of the State Judiciary, Judicial College Bldg., Univ. of Nevada, Reno, NV 89507. Phone: 702-784-6747. Cost: \$345.

10-12: Federal Publications, Practical Negotiation of Government Contracts, Los Angeles, CA. Cost: \$400.

11-12: FBA-BNA-SYSBA, 3d Annual Labor Law Institute, The Plaza, New York, NY.

11-12: ABA National Institute, Current Legal Aspects of Doing Business in the Middle East, Mayflower Hotel, Washington, DC.

11-13: ABA National Institute, The Federal Rules of Evidence and RESPA, Stanford Court, San Francisco, CA.

14-17: Institute for Court Management, Computerized Information Systems Project Management, Dallas, TX.

14-19: National College of the State Judiciary, Sentencing [Includes the ABA Minimum Standards on Sentencing], Univ. of Nevada, Reno campus, Reno, NV. Contact: Dean, National College of the State Judiciary, Judicial College Bldg., Univ. of Nevada, Reno, NV 89507. Phone: 702-784-6747. Cost: \$345.

15-16: Federal Publications, Cuneo on Government Contracts, Boston, MA. Cost: \$325.

17-19: Federal Publications, Changes in Government Contracts, Washington, DC. Cost: \$400.

17-19: Federal Publications, Competing for Contracts, Los Angeles, CA. Cost: \$400.

18-19: FBA, Administrative Law Conference, Mayflower Hotel, Washington, DC.

22-23: Federal Publications, Cuneo on Government Contracts, Santa Barbara, CA. Cost: \$325.

22-23: Federal Publications, Defective Pricing, San Francisco, CA. Cost: \$325.

Reserve Affairs Items

From: Reserve Affairs, TJAGSA

Law School Liaison Program: Now three years old, the Law School Liaison Program continues to provide a source of information for law school students interested in the Judge Advocate General's Corps. Under this program, Reserve Component judge advocate officers voluntarily act as the Corps' liaison at law

schools throughout the country. These officers are available to provide interested law students with pertinent information concerning assignment with the Judge Advocate General's Corps, both active duty and Reserve Component. Material is distributed by the Assistant Commandant for Reserve Affairs to each

liaison officer which provides him with information necessary to answer the wide range of inquiries that he can expect to receive.

In the three years the program has been in effect, the number of participants has increased to 38 volunteers who represent the Corps as liaison to 63 law schools in 23 states and the District of Columbia.

This program provides an excellent opportunity for Reserve judge advocates to participate in an important Corps activity. Greater

Reserve participation in the recruiting of new judge advocate officers will bring beneficial results to both the Active Army and the Reserve Components.

The following is a list of law schools which are presently served by a liaison officer. Officers who wish to assist in this program at other schools or who would like additional information should contact the Assistant Commandant for Reserve Affairs, The Judge Advocate General's School, Charlottesville, Virginia 22901

Reserve Component Law School Liaison Officers

<i>State and City</i>	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
CALIFORNIA			
Davis	University of California Law School (Davis)	CPT John A. Dougherty District Attorney's Office Room 301, Court House Sacramento, CA 95814	916-444-0520
Sacramento	McGeorge Law School	CPT John A. Dougherty	916-444-0520
COLORADO			
Boulder	University of Colorado Law School	LTC William L. Carew 15 South Weber Colorado Springs, CO 80903	
Denver	University of Denver Law School	LTC William L. Carew	
CONNECTICUT			
New Haven	Yale Law School	MAJ Ernest S. Auerbach 44 Strawberry Hill Avenue, 3F Stamford, CT 06902	716-546-4500 Ext 4717
Stamford	University of Connecticut Law School	MAJ Ernest S. Auerbach	716-546-4500 Ext 4717
DELAWARE			
Wilmington	Delaware Law School	MAJ Richard F. Plechner 351 Main Street Metuchen, New Jersey 08840	201-548-4457
FLORIDA			
St. Petersburg	Stetson University Law School	MAJ Thomas C. Marks, Jr. 2582 60th Avenue South St. Petersburg, FL 33712	813-867-6136
ILLINOIS			
Champaign	University of Illinois School of Law	MAJ Richard H. Mills Circuit Court 8th Judicial Circuit Cass County Court House Virginia, IL 62691	217-452-3220

<i>State and City</i>	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
ILLINOIS (Cont'd)			
Chicago	University of Chicago School of Law De Paul University College of Law Loyola University College of Law John Marshall School of Law Northwestern University College of Law	LTC Michael I. Spak De Paul University School of Law 25 East Jackson Boulevard Chicago, IL 60606	312-929-3525
IOWA			
Des Moines	Drake Law School	MAJ Harold L. Van Voorhis 1100 Savings & Loan Building 206 Sixth Avenue Des Moines, Iowa 50309	515-283-2241
KANSAS			
Lawrence	University of Kansas Law School	COL Jack N. Bohm 950 Home Savings Building 1006 Grand Avenue Kansas City, MO 64106	816-842-6422
MASSACHUSETTS			
Boston	New England School of Law Boston College Law School Suffolk University Law School Boston University Law School	CPT Devin J. O'Dea 548 Great Elm Way Nagog Woods Alton, MA 01718	617-494-4061
Cambridge	Harvard Law School	CPT Kevin J. O'Dea	617-494-4061
MICHIGAN			
Ann Arbor	University of Michigan Law School	1LT Frederick J. Amrose 16075 Kinross Birmingham, MI 48009	313-961-0473
Detroit	University of Detroit School of Law Wayne State University Law School	1LT Frederick J. Amrose	313-961-0473
Lansing	Thomas Cooley School of Law	MAJ Estes D. Brockman 21519 Virginia Drive Southfield, MI 48076 1LT John Hays Farhat, Burns & Story, P.C. Thomas More Building 417 Seymour Avenue Lansing, MI 489933	313-256-2519
MINNESOTA			
Minneapolis	University of Minnesota Law School	MAJ Thomas J. Lyons 2114 Seventeenth Avenue North St. Paul, NM 55109	612-291-9511
St. Paul	William Mitchell College of Law Hamline University School of Law	MAJ Thomas J. Lyons	612-291-9511
MISSISSIPPI			
University	University of Mississippi School of Law	COL Aaron S. Condon School of Law University of Mississippi University, MS 38677	601-232-7421

<i>State and City</i>	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
MISSOURI			
Columbia	University of Missouri Law School	COL Jack N. Bohm 950 Home Savings Building 1006 Grand Avenue Kansas City, MO 64106	816-842-6422
NEW JERSEY			
Newark	Rutgers University School of Law	LTC Joseph S. Ziccardi Suite 710, Two Penn Center Plaza 15 and John F. Kennedy Blvd. Philadelphia, PA 19102	215-568-5057
	Seton Hall University School of Law	LTC Joseph S. Ziccardi	215-568-5057
NEW YORK			
Albany	Albany Law School, Union University	LTC Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	914-357-5100
Brooklyn	Brooklyn Law School	CPT James E. O'Donnell, Jr. District Attorney's Office Kings County Municipal Building Brooklyn, NY 11201	212-643-5100
Buffalo	State University of New York at Buffalo	WO Joseph G. Kihl 3177 South Park Avenue Lackawanna, NY 14218	716-825-0850
Hempstead	Hofstra University School of Law	LTC Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	914-357-2660
Ithaca	Cornell Law School	CPT Mike Manheim 306 Loew Building Syracuse, NY 13202	315-422-3078
Jamaica	St. John's University School of Law	LTC Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	915-357-2660
	St. John's University School of Law	COL Joseph Calamari Utopia and Grand Central Jamaica, NY 11432	212-969-8000
New York	Columbia University School of Law	LTC Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	915-357-2660
	Columbia University School of Law	MAJ Stephen Davis 250 Broadway New York, NY 10007	212-227-6640
	Fordham University School of Law	LTC Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	914-357-2660
	New York University Law School	MAJ Basil N. Apostle 9 Boulder Place Yonkers, NY 10705	212-726-7070
Syracuse	Syracuse University College of Law	CPT Mike Manheim 306 Loew Building Syracuse, NY 13202	315-422-3078

<i>State and City</i>	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
NORTH CAROLINA			
Durham	North Carolina Central University School of Law	MAJ Malcolm J. Howard P. O. Box 859 Greenville, NC 27834	202-456-6684
Winston-Salem	Wake Forest Law School	MAJ Malcolm J. Howard	202-456-6684
NORTH DAKOTA			
Grand Forks	University of North Dakota School of Law	CPT Murray G. Sagsveen Executive Office State Capitol Bismark, ND 58505	701-224-2200
OHIO			
Cincinnati	University of Cincinnati Law School	LTC Jacquelson A. Jennewein 3826 Middleton Avenue Cincinnati, Ohio 45220	421-4420
Columbus	Ohio State University Law School	COL Charles E. Brant The Midland Building 250 East Broad Street Columbus, Ohio 43215	614-221-2121
	Capitol University Law School	COL Charles E. Brant	614-221-2121
OREGON			
Eugene	University of Oregon School of Law	MAJ Gary E. Lockwood P. O. Box 325 Hood River, OR 97031	503-386-1811
Portland	Lewis and Clark College Northwestern School of Law	COL Charles S. Crookham Fourth Judicial District Circuit Court of Oregon Multnomah County Courthouse Portland, OR 97204	503-248-3198
Salem	Willamette University School of Law	MAJ Gary E. Lockwood P. O. Box 325 Hood River, OR 97031	503-386-1811
PENNSYLVANIA			
Carlisle	Dickinson School of Law	LTC Joseph S. Ziccardi Suite 710 Two Penn Center Plaza 15 and John F. Kennedy Blvd Philadelphia, PA 19102	215-568-5057
	Temple University School of Law	LTC Joseph S. Ziccardi	215-568-5057
Villanova	Villanova University School of Law	LTC Joseph S. Ziccardi	215-568-5057
TENNESSEE			
Nashville	Vanderbilt University School of Law	LTC Abram W. Hatcher (Ret) Suite 202 1700 Hayes Street Nashville, TN 37203	615-327-1010
TEXAS			
Austin	University of Texas Law School	CPT John M. Compere 911 Frost Brank Building San Antonio, TX 78205	512-225-3031
Houston	Bates College of Law	COL John Jay Douglass (Ret) College of Law University of Houston Houston, TX 77004	713-749-1571

<i>State and City</i>	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
TEXAS (Cont'd)			
Lubbock	Texas Tech University School of Law	CPT David C. Cummins School of Law, Texas Tech University P. O. Box 4030 Lubbock, TX 79409	806-742-6121
San Antonio	St. Mary's University School of Law	CPT John M. Compere 911 Frost Bank Building San Antonio, TX 78205	512-225-3031
Waco	Baylor University School of Law	Hulen D. Wendorf Baylor University School of Law Waco, TX 76703	
VERMONT			
South Royalton	Vermont Law School	CPT Richard L. Burstein P. O. Box 28 South Royalton, VT 05068	802-763-8320
WISCONSIN			
Madison	University of Wisconsin Law School	MAJ Richard Z. Kabaker University of Wisconsin— Madison Law School Madison, WI 53706	608-262-2441
Milwaukee	Marquette University Law School	MAJ Richard Z. Kabaker	608-262-2441
WASHINGTON, DC	American University Law School	MAJ W. Peyton George 1701 Pennsylvania Ave., N.W. Suite 350 Washington, D. C. 20006	202-293-5325

JAGC Personnel Section

From: PP&TO, OTJAG

1. Orders Requested as Indicated:

<i>Name</i>	<i>From</i>	<i>To</i>
COLONELS		
Allan D. Adams, Jr.	U.S. Army Judiciary	Ft. Sam Houston, TX
Thomas H. Davis	OTJAG	USALSA, Falls Church, VA
Charles P. Dribben	Ft. Riley, KS	USALSA w/duty USCMR
Hugh E. Henson	Ofc of Chief of Legislative Liaison, Pentagon	S&F, USMA
LIEUTENANT COLONELS		
Charles J. Baldree	Germany	USALSA w/sta Nuremberg, Germany
James A. Hopper	U.S. Army Judiciary	G&GSC Ft. Leavenworth, KS
Dennis R. Hunt	C&GSC, Ft. Leavenworth, KS	S&F, TJAGSA
James Jucera	U.S. Army Judiciary	Geo. Washington Univ.

<i>Name</i>	<i>From</i>	<i>To</i>
Jules B. Lloyd	USA Med Res & Dev Com, Washington, DC	Army Cncl. Rev. Bd., Pentagon
Frederick E. Moss	Korea	C&GSC, Ft. Leavenworth, KS
Jack A. Mullins	Okinawa	Korea
Francis D. O'Brien	Ft. Devens, MA	Germany
MAJORS		
Harry C. Beans	USA Support Command, HI	Schofield Barracks, HI
Brooks B. LaGrue	S&F, USMA	C&GSC, Ft. Leavenworth, KS
Joe D. Miller	OTJAG	USALSA, Falls Church, VA
Robert M. Read	Thailand	Ft. Bragg, NC
James Recasner	Okinawa	USALSA, Falls Church, VA
Benjamin A. Sims	Ft. Bragg, NC	USALSA, Falls Church, VA
Philip M. Suarez	25th Infantry Division, HI	USA Support Command, HI
CAPTAINS		
Paul E. Artzer	24th Advanced Course, TJAGSA	Ft. Bliss, TX
Bernie L. Bates	Ft. Benjamin Harrison, IN	Ft. Belvoir, VA
Ervin W. Bazzle	Ft. Jackson, SC	Germany
John R. Beeson	Ft. Knox, KY	S&F, TJAGSA
Andrew C. Blunar	U.S. Army Garrison, Ft. Riley, KS	U.S. Army Retraining Brigade, Ft. Riley, KS
Stephen M. Bickford	Presidio of San Francisco	Germany
Theodore B. Borek	Germany	USALSA w/sta Schweinfurt, Germany
Michael D. Bowles	Ft. Sam Houston, TX	HQ, Fifth Army, Ft. Sam Houston, TX
Larry G. Cecil	Ft. Lewis, WA	USALSA w/sta Ft. Lewis, WA
Robert A. Champlain	Korea	Germany
Joe A. Cole, Jr.	Italy	25th Advanced Course, TJAGSA
Stephen M. Collins	Safeguard Command, Nekoma, ND	Ft. Bliss, TX
Robert P. Corbin	Ft. Bragg, NC	Armed Forces Institute of Pathology, WRAMC
Patrick F. Crow	Germany	25th Advanced Course, TJAGSA
Ashby W. Davis	Ft. Gordon, GA	USALSA w/st Ft. Gordon, GA
Joseph Dooley	Ft. Ben Harrison (stu. det.)	MDW
Brooks S. Doyle, Jr.	Ft. McPherson, GA	25th Advanced Course, TJAGSA
Claud H. Drinnen	USA Procurement Agency, Korea	Ft. Bliss, TX
Daniel J. Dykstra	Army Claims Service, Ft. Meade, MD	Ft. Lewis, WA
Harold W. Elliot	Ft. Jackson, SC	Korea
Harold E. Fievet	Ft. McPherson, GA	S&F, USMA
Charles Florsheim	Korea	Ft. Sam Houston, TX
Cecil G. Foster	Ft. Gordon, GA	USALSA w/sta Ft. Gordon, GA
Craig Gabbert	Ft. Ben Harrison, IN	Korea

Name	From	To
Robert Ganstine	Korea	Germany
Stanley C. Gaylord	Korea	Homestead AFB, FL
Michael E. Gersten	Korea	Homestead AFB, FL
Frank D. Giorno	Ft. Belvoir, VA	Aberdeen Proving Grounds, MD
Joseph L. Graves, Jr.	Ft. Sam Houston, TX	OTJAG
Robert L. Guhl	Ft. Carson, CO	Armed Forces Institute of Pathology, WRAMC
Albert L. Haggard	Korea	Ft. Sam Houston, TX
Normand J. Hamelin	24th Advanced Course, TJAGSA	OTJAG
Thurman B. Hampton	Ft. Bragg, NC	USALSA w/sta Ft. Bragg, NC
Clarke E. Herbert	Ft. Ord, CA	USALSA w/sta Ft. Ord, CA
John W. Higley	24th Advanced Course, TJAGSA	Ft. Carson, CO
David B. Holmes	Ft. Meade, MD	OTJAG
Michael J. Hurley	Ft. Knox, KY	USALSA, Falls Church, VA
Robert C. Jablonski	Ft. Knox, KY	USALSA w/sta Ft. Knox, KY
William C. Jaekel	Ft. Gordon, GA	USALSA w/sta Ft. Gordon, GA
Marshall M. Kaplan	Germany	25th Advanced Course, TJAGSA
John G. Karjala	Germany	Geo. Washington Univ.
Henry C. Karlson	Ft. Gordon, GA	Ft. Campbell, KY
Paul T. Krieger	Ft. Gordon, GA	25th Advanced Course
Julian G. Macias, Jr.	Univ. of California, Davis	Ft. McClellan, AL
Thomas G. Martin	Univ. of Alabama	Ft. Ben Harrison, IN
Daniel C. McCarthy	U.S. Army Judiciary	USALSA w/sta Ft. Knox, KY
Lawrence G. McDade	Germany	USALSA w/sta Ft. Dix, NJ
James D. McManus, Jr.	Ft. Eustis, VA	USALSA w/sta Ft. Meade, MD
William G. F. Miller	Hawaii	Defense Language Institute, Monterey, CA
James D. Mogridge	Germany	25th Advanced Course, TJAGSA
Timothy J. Mullin	USA Aviation Systems Center, St. Louis, MO	Korea
James J. Murphy	Ft. Hood, TX	USA DARCOM, Alexandria, VA
David E. Norris	U.S. Army Judiciary	Korea
Harvey T. Oringher	Ft. Ord, CA	USALSA, Falls Church, VA
John R. Osgood	U.S. Army Judiciary	25th Advanced Course, TJAGSA
Ed K. Ota, Jr.	Germany	USALSA w/sta Frankfurt, Germany
Randall Palmer III	Oklahoma City Univ.	Ft. Sam Houston, TX
Coral C. Pietsch	Korea	Hawaii
James H. Pietsch	Korea	Hawaii
Andrew Pogany	Army Materiel Command, Alexandria, VA	USALSA w/sta Contract Appeals Division
Michael J. Pohlmeier	Ft. Ord, CA	USA Aviation Systems Command, St. Louis, MO
William A. Poore	U.S. Army Judiciary	Ft. Belvoir, VA
William D. Raymond, Jr.	Univ. of Virginia	Korea
Joe R. Reeder	Ft. Hood TX	OTJAG

<i>Name</i>	<i>From</i>	<i>To</i>
Wallace A. Reid	Korea	USALSA w/sta Seoul, Korea
Gary L. Robbins	Okinawa	Ft. Leonard Wood, MO
James T. Rowan	Ft. Bragg, NC	Defense Language Institute, Monterey, CA
Michael T. Rudd	Armed Forces Institute of Pathology, WRAMC	U.S. Army Claims Service
Richard D. Russell	U.S. Army Judiciary	Ft. Hood, TX
Arthur W. Schneiner	Ft. Meade, MD	USALSA w/sta Ft. Meade, MD
Charles L. Schwabe	Ft. Bragg, NC	OTJAG
John R. Seeronen	Ft. Amador, Canal Zone	Presidio of San Francisco
Robert J. Short	Armed Forces Institute of Pathology, WRAMC	Germany
Jeffrey F. Slavin	Ft. Meade, MD	U.S. Army NE Regional Recruiting Command, Ft. Meade, MD
Richard G. Stein	Ft. Dix, NJ	USALSA w/sta Ft. Dix, NJ
Alan R. Thiele	U.S. Army Judiciary	Korea
Martha J. Trudo	Ft. Carson, CO	Korea
Bruce F. Wagner	Ft. Campbell, KY	USALSA, w/sta Ft. Campbell, KY
Dennis J. Wing	Germany	S&F, USMA
Benjamin M. Yedesis	Korea	USALSA, Falls Church, VA
John A. Zimmerman III	Ft. Campbell, KY	Ft. Ord, CA
John C. Zimmerman	Ft. Hood, TX	USALSA w/sta Ft. Hood, TX
John M. Zoscak, Jr.	Ft. Hood, TX	USALSA, Falls Church, VA
Karin W. Zucker	Armed Forces Institute of Pathology, WRAMC	OTJAG
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Prentiss E. Peagles	Duke University	Ofc General Counsel, Secretary of the Army, Washington, DC
Michael K. King	Univ. of Texas	Ft. Polk, LA
Mark H. Rutter	Rutgers Law School	Ft. Polk, LA
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Wilfred N. Bastille	Ft. Monroe, VA	Ft. Carson, CO
Kendall J. Betteridge	Ft. Leavenworth, KS	Ft. Sill, OK
Arthur Cross	Ft. Monmouth, NJ	Ft. Hood, TX
William G. Cushing	Ft. Benning, GA	Germany
Michael W. Ford	Korea	Ft. Meade, MD
David A. Gaffney	Ft. Ben Harrison (Stu. Det.)	Alaska
William T. Hall	Ft. Knox, KY	Germany
Calvin R. Haynes	Presidio of San Francisco	Germany
Thomas K. King	Germany	Ft. Monroe, VA
Rosauero L. Lindogan	Ft. Rucker, AL	Ft. Riley, KS

Name	From	To
Victor M. Lovell	Germany	Presidio of San Francisco
Frank Maloney	Ft. Riley, KS	Germany
Dennis T. McCormick	Ft. Huachuca, AZ	Ft. Benning, GA
Andrew J. Perkins	Ft. Sill, OK	Korea
Alzie E. Ramsey, Jr.	Ft. Rucker, AL	Ft. Ben Harrison, IN
Leonard N. Syphrit	Alaska	Ft. Knox, KY
John J. Topp	Ft. Hood, TX	Germany
Larry L. Tucker	Ft. Dix, NJ	Ft. Huachuca, AZ
Arnold L. Winger, Jr.	Germany	Ft. Monmouth, NJ

2. SJA Office Building. The following recent message is reproduced for all JA officers.

SUBJECT: Rugs and Drapes for Army Offices (Change to CTA 50-913) Reference DAMO-FDU MSG 211640Z Jun 76, Subject as Above.

1. The cited message authorizes rugs

and drapes for the offices of military judges, military legal counsel, staff judge advocates, deputy staff judge advocates, legal assistance officers, and GCM and BCD SPCM witness waiting rooms.

2. SJA's are urged to take the necessary action to acquire those furnishings for their offices as soon as practicable.

Current Materials Of Interest

Articles

Rehnquist, *Observation: The Notion of a Living Constitution*, 54 TEXAS L. REV. 693 (1976). By William H. Rehnquist, Associate Justice, U.S. Supreme Court.

Comment, *Lump Sum Division of Military Retired Pay: Ramsey v. Ramsey*, 12 IDAHO L. REV. 197 (1976). *Ramsey v. Ramsey*, 96 Idaho 672, 535 P.2d 53 (1975).

Kinnard, *The Vietnam War In Retrospect: The Army General's Views*, 4 J. POL. & MILITARY SOCIOLOGY 17 (1976). Douglas Kinnard is an Assistant Professor of Political Science at the University of Vermont. He served as a Brigadier General in the Vietnam War.

Clotfelder & Peters, *Profession and Society: Young Military Officers Look Outward*, 4 J. POL. & MILITARY SOCIOLOGY 39 (1976).

Kourvetaris & Dobratz, *The Present State and Development of Sociology of the Military*, 4 J. POL. & MILITARY SOCIOLOGY 67 (1976).

Kanter, *Managerial Careers of Air Force Generals: A Test of the Janowitz Convergence Hypothesis*, 4 J. POL. & MILITARY SOCIOLOGY 121 (1976). This issue also includes two comments on this article and a reply by the author.

Research Note, *Trends in the Structure of Army Families*, 4 J. POL. & MILITARY SOCIOLOGY 135 (1976). The authors are David R. Segal, Mady W. Segal & Robert F. Holz of the U.S. Army Research Institute for the Behavioral and Social Sciences and COL Gary J. Norbo, LTC Richard S. Seberg & COL William L. Wubben, Jr., of the U.S. Army War College.

Note, *Damages for Federal Employment Discrimination: Section 1981 and Qualified Executive Immunity*, 85 YALE L.J. 518 (1976).

Drachsler, *The Freedom of Information Act and the "Right" of Non-Disclosure*, 28 ADMINISTRATIVE L. REV. 1 (1976).

Federal Administrative Law Developments—19 5, 1976 DUKE L.J. 283 (1976).

The Privacy Act of 1974: An Overview, 1976 DUKE L.J. 301 (1976).

Protection From Government Disclosure—The Reverse-FOIA Suit, 1976 DUKE L.J. 330 (1976).

Developments Under the Freedom of Information Act—1975, 1976 DUKE L.J. 366 (1976).

Books

ARCHIBALD COX, *THE WARREN COURT: CONSTITUTIONAL DECISION AS AN INSTRUMENT OF REFORM*.

ROBERT G. McCLOSKEY, *THE MODERN SUPREME COURT*.

VERN COUNTRYMAN, *THE JUDICIAL RECORD OF JUSTICE WILLIAM O. DOUGLAS*. MAXWELL H. BLOOMFIELD, *AMERICAN LAWYERS IN A CHANGING SOCIETY, 1776-1876*.

WILLIAM E. NELSON, *AMERICANIZATION OF THE COMMON LAW: THE IMPACT OF LEGAL CHANGE ON MASSACHUSETTS SOCIETY, 1760-1830*.

GEORGE DARGO, *JEFFERSON'S LOUISIANA: POLITICS AND THE CLASH OF LEGAL TRADITIONS*.

The six books listed above are all available from the Harvard University Press, 79 Garden St., MA 02138.

ABRAHAM D. SOFAER, *WAR, FOREIGN AFFAIRS AND CONSTITUTIONAL POWER* (1976). This is the first volume of a study funded by the ABA. Available from Ballinger Publishing Co., 17 Dunster St., Harvard Square, Cambridge, MA 02138 for \$15.

RICHTER H. MOORE, JR., THOMAS C. MARKS JR., AND ROBERT V. BARROW, *READINGS IN CRIMINAL JUSTICE* (1976). MAJ Thomas Marks is a former member of TJAGSA's faculty. Contact: The Bobbs-Merrill Company, Inc., 4300 W. 62d St., Indianapolis, IN 46268.

Book Reviews

Rooks, *Lawyer's Ethics in an Adversary System*. By Monroe Freedman, *TRIAL MAGAZINE*, June 1976, at 42.

Palmer, *A Soldier Reports*. By General William C. Westmoreland, *THE ARMY COMMUNICATOR*, Spring 1976, at 57. The review is by COL Dave R. Palmer who is currently assigned to the Office of the Chief of Staff for the Army.

By Order of the Secretary of the Army:

Official:

PAUL T. SMITH
Major General, United States Army
The Adjutant General

FRED WEYAND
General, United States Army
Chief of Staff



